

IN THE DISTRICT COURT OF THE UNITED STATES
for the Western District of New York

APRIL 2017 GRAND JURY
(Impaneled 4/28/2017)

THE UNITED STATES OF AMERICA

INDICTMENT

-vs-

17-CR-6079

JAMES WALTON

Violations:

Title 18, United States Code,
Sections 1344 and 1028A(a)(1)
(2 Counts)

INTRODUCTORY ALLEGATIONS

The Grand Jury Charges That:

1. At all times relevant to this Indictment, the defendant, JAMES WALTON, was employed by Victim, a person known to the Grand Jury, and worked in the Western District of New York. Victim owned and operated a real estate rental business consisting of manufactured home parks and apartments located in the Western District of New York. Victim conducted his business through a variety of entities, including: Country Meadows, Madison Place, Willow Cove Mobile Home Park, Thomas Estates Manufactured Housing Community, Thomas Estates West, and Thomas Estates West II.

2. At all times relevant to this Indictment, Victim's business issued security deposit refund checks to tenants who were entitled to a return of all or a part of a security

deposit upon the end of a rental period. Such security deposit refund checks were drawn on bank accounts located in the Western District of New York, including Tompkins Bank of Castile and M&T Bank.

3. At all times relevant to this Indictment, as part of his duties, the defendant, JAMES WALTON, processed requests for security deposit refund checks. Once a security deposit refund check was prepared, WALTON was responsible for sending the check to the payee thereof.

COUNT 1

(Bank Fraud)

The Grand Jury Charges That:

1. The allegations contained in the Introductory Allegations of this Indictment are incorporated by reference as though set forth in full herein.

2. From in or about January 2011 to in or about December 2014, in the Western District of New York, and elsewhere, the defendant, JAMES WALTON, did knowingly execute, and attempt to execute, a scheme and artifice to defraud M&T Bank and Tompkins Bank of Castile, both financial institutions within the meaning of Title 18, United States Code, Section 20, and to obtain moneys and funds owned by and under the custody and control of said financial institutions by means of false and fraudulent pretenses, representations and promises.

3. It was part of the scheme and artifice that WALTON obtained possession of security deposit refund checks payable to third parties, primarily tenants of Victim's business, forged the signatures of the payees, and negotiated the checks for his own benefit, resulting in a loss to said financial institutions and the account holder, Victim, in the amount of approximately \$41,781.81.

4. It was part of the scheme and artifice that, on or after the dates set forth below, WALTON forged and fraudulently negotiated security deposit refund checks payable to the persons set forth below, persons known to the Grand Jury, in the approximate amounts set forth below, to obtain moneys and funds owned by and under the custody and control of the financial institutions set forth below:

DATE	AMOUNT	PAYEE	FINANCIAL INSTITUTION
1/31/11	\$357.54	D.W.	M&T Bank
3/18/11	\$334.08	J.M.	M&T Bank
7/25/11	\$306.82	P.F.	M&T Bank
7/25/11	\$79.48	G.H.	M&T Bank
7/27/11	\$77.81	K.K.	M&T Bank
11/21/11	\$351.47	P.O.	M&T Bank
12/5/11	\$247.34	C.L.	M&T Bank
2/16/12	\$163.92	M.D.	M&T Bank
2/16/12	\$292.24	E.K.	M&T Bank
3/8/12	\$379.81	J.M.	M&T Bank

3/8/12	\$398.93	T.B.	M&T Bank
3/8/12	\$623.12	G.V.	M&T Bank
3/29/12	\$312.98	F.M.	M&T Bank
3/29/12	\$783.69	J.G.	M&T Bank
6/12/12	\$340.86	P.D.	M&T Bank
6/12/12	\$334.96	G.D.	M&T Bank
6/12/12	\$365.26	F.H.	M&T Bank
6/12/12	\$284.30	H.J.	M&T Bank
8/8/12	\$1,000.00	P.M.	Tompkins Bank of Castile
8/24/12	\$343.24	T.F.	M&T Bank
8/24/12	\$299.36	E.P.	M&T Bank
8/24/12	\$383.50	A.W.	M&T Bank
10/3/12	\$381.82	K.V.	M&T Bank
10/3/12	\$295.23	F.M.	M&T Bank
10/3/12	\$392.94	J.B.	M&T Bank
10/3/12	\$342.32	J.J.	M&T Bank
10/16/12	\$989.22	N.C.	Tompkins Bank of Castile
11/2/12	\$112.57	K.G.	Tompkins Bank of Castile
11/7/12	\$366.79	R.M.	M&T Bank
11/7/12	\$379.49	L.M.	M&T Bank
11/7/12	\$216.02	M.B.	M&T Bank
11/7/12	\$361.62	M.H.	M&T Bank

11/7/12	\$326.13	S.B.	M&T Bank
11/21/12	\$1,005.08	M.M.	Tompkins Bank of Castile
12/6/12	\$1031.55	R.G.	Tompkins Bank of Castile
12/6/12	\$702.31	C.H.	Tompkins Bank of Castile
12/21/12	\$385.00	L.H.	Tompkins Bank of Castile
12/21/12	\$290.98	J.S	Tompkins Bank of Castile
2/20/13	\$391.62	V.B.	M&T Bank
2/22/13	\$376.11	C.W.	Tompkins Bank of Castile
3/29/13	\$382.93	M.M.	Tompkins Bank of Castile
4/4/13	\$142.97	M.C.	M&T Bank
6/14/13	\$989.49	G.W.	Tompkins Bank of Castile
6/25/13	\$335.44	J.L.	M&T Bank
7/18/13	\$991.52	B.L.	Tompkins Bank of Castile
7/18/13	\$382.91	B.K.	Tompkins Bank of Castile
7/18/13	\$356.51	A.D.	Tompkins Bank of Castile
7/22/13	\$351.93	J.S.	M&T Bank
7/22/13	\$449.09	A.W.	M&T Bank
7/22/13	\$386.76	D.P.	M&T Bank
8/20/13	\$364.98	M.H.	M&T Bank
10/28/13	\$343.34	D.C.	Tompkins Bank of Castile
10/29/13	\$306.28	C.W.	Tompkins Bank of Castile
10/29/13	\$301.08	A.W.	Tompkins Bank of Castile

10/29/13	\$189.53	P.M.	Tompkins Bank of Castile
11/18/13	\$363.75	M.P.	M&T Bank
12/6/13	\$985.00	E.D.	Tompkins Bank of Castile
12/30/13	\$391.83	M.L.	M&T Bank
1/16/14	\$346.51	G.M.	Tompkins Bank of Castile
1/16/14	\$257.40	J.W.	Tompkins Bank of Castile
1/30/14	\$1092.22	L.M.	Tompkins Bank of Castile
1/30/14	\$359.03	B.E.	Tompkins Bank of Castile
2/3/14	\$334.61	J.C.	M&T Bank
2/3/14	\$368.00	J.A.	M&T Bank
2/3/14	\$319.53	V.P.	M&T Bank
3/19/14	\$305.79	R.C.	Tompkins Bank of Castile
3/19/14	\$337.98	A.M.	Tompkins Bank of Castile
3/19/14	\$672.13	S.M.	Tompkins Bank of Castile
3/21/14	\$1,150.59	T.M.A.	M&T Bank
3/21/14	\$350.93	J.K.	M&T Bank
4/16/14	\$356.10	C.M.	M&T Bank
4/16/14	\$311.53	K.W.	M&T Bank
6/2/14	\$291.98	J.P.	Tompkins Bank of Castile
6/2/14	\$369.48	J.P.	Tompkins Bank of Castile
6/2/14	\$344.33	J.C.	Tompkins Bank of Castile
6/2/14	\$356.14	H.H.	Tompkins Bank of Castile

6/9/14	\$355.98	E.Z.	M&T Bank
6/16/14	\$709.17	A.P.	Tompkins Bank of Castile
7/1/14	\$361.08	C.B.	M&T Bank
7/1/14	\$395.00	E.M.	M&T Bank
7/11/14	\$650.52	D.G.	Tompkins Bank of Castile
7/11/14	\$258.51	R.D.	Tompkins Bank of Castile
7/11/14	\$328.37	J.N.	Tompkins Bank of Castile
9/4/14	\$742.50	M.B.	Tompkins Bank of Castile
10/3/14	\$341.27	C.P.	Tompkins Bank of Castile
10/3/14	\$1,000.00	J.D.	Tompkins Bank of Castile
10/3/14	\$348.68	D.H.	Tompkins Bank of Castile
10/6/14	\$233.85	B.S.	M&T Bank
10/6/14	\$371.20	W.T.	M&T Bank
10/6/14	\$304.67	B.S.	M&T Bank
10/20/14	\$380.66	A.C.	M&T Bank
10/20/14	\$980.35	N.J.	M&T Bank
11/10/14	\$309.29	D.S.	M&T Bank
11/10/14	\$380.50	W.L.	M&T Bank
11/11/14	\$292.38	D.H.	Tompkins Bank of Castile
11/14/14	\$339.27	H.F.	Tompkins Bank of Castile
11/14/14	\$351.43	D.T.	Tompkins Bank of Castile

All in violation of Title 18, United States Code, Section 1344.

COUNT 2

(Aggravated Identity Theft)

The Grand Jury Further Charges That:

1. The allegations contained in the Introductory Allegations and Count 1 of this Indictment are incorporated by reference as though set forth in full herein.

2. From in or about January 2011 to in or about December 2014, in the Western District of New York, and elsewhere, the defendant, JAMES WALTON, did knowingly transfer, possess, and use, without lawful authority, means of identification of other persons, that is, the names and security deposit account numbers of others known to the Grand Jury, during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), that is, a violation of Title 18, United States Code, Section 1344, as alleged in Count 1 of this Indictment.

All in violation of Title 18, United States Code, Section 1028A(a)(1).

FORFEITURE ALLEGATION

The Grand Jury Alleges That:

Upon conviction of Count 1 alleged in this Indictment, the defendant, JAMES WALTON, shall forfeit to the United States of America all of his right, title and interest in any and all property, real or personal, constituting or derived from any proceeds that obtained, directly or indirectly, as the result of such violation, including but not limited to the following:

MONETARY AMOUNT

- a. The sum of \$41,781.81 United States currency, which sum of money is equal to the total amount of proceeds obtained as a result of the offense set forth in Count 1 of this Indictment. In the event that sum is not available, then a money judgment for the same amount, which amount represents the total amount of proceeds that were obtained, directly or indirectly, as a result of the offenses described in Count 1 will be entered against the defendant.

If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendants:

1. cannot be located upon the exercise of due diligence,
2. has been transferred or sold to, or deposited with, a third person,
3. has been placed beyond the jurisdiction of the Court,
4. has been substantially diminished in value, or
5. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1), up to the value of the above amount.

All pursuant to Title 18, United States Code, Section 982(a)(2) and Title 21, United States Code, Section 853(p).

DATED: Rochester, New York, August 22, 2017.

JAMES P. KENNEDY, JR.
Acting United States Attorney

BY: /s/JOHN J. FIELD
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A TRUE BILL:

/s/Foreperson
FOREPERSON